

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NYLES WAYNE WATSON,

Petitioner,

No. CIV S-03-1150 LKK EFB P

vs.

TOM L. CAREY, et al.,

Respondents.

ORDER

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's August 21, 2008, denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).


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1 For the reasons set forth in the magistrate judge's November 15, 2006, and June
2 13, 2008, findings and recommendations, petitioner has not made a substantial showing of the
3 denial of a constitutional right. Accordingly, a certificate of appealability should not issue in this
4 action.

5 IT IS SO ORDERED.

6 DATED: October 6, 2008.

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9 LAWRENCE K. KARLTON
10 SENIOR JUDGE
11 UNITED STATES DISTRICT COURT
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